

**ORDINANCE NO 2018 6**

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE,  
FLORIDA, AMENDING CHAPTER 7, "BUSINESS  
REGULATIONS" OF THE VILLAGE CODE OF  
ORDINANCES TO INCLUDE SECTION 7 4,  
"PROHIBITION ON DISTRIBUTION AND SALE OF  
PLASTIC STRAWS", PROVIDING FOR SEVERABILITY,  
PROVIDING FOR INCLUSION IN THE CODE,  
PROVIDING FOR CONFLICTS, AND PROVIDING FOR  
AN EFFECTIVE DATE**

**WHEREAS**, the Village of Key Biscayne ( Village ) is committed to environmental conscientiousness and leadership and towards that end has previously adopted ordinances prohibiting the sale or use of polystyrene food service articles by Village contractors special event permittees and food service providers and

**WHEREAS**, the Village finds that it is in the public interest safety and welfare to reduce litter and pollutants on the lands and in the waters of the Village and

**WHEREAS**, discarded plastic straws threaten wildlife and marine life and degrade and litter the beaches and waters off of Florida s coast which include areas within the Village and

**WHEREAS** the sale and distribution of plastic straws has a detrimental effect on the Village s environment and

**WHEREAS**, the Village Council finds that there are reasonable environmentally friendly alternatives to plastic straws and

**WHEREAS**, the Village seeks to further preserve and enhance the Village s environment by prohibiting the sale or distribution of single use plastic straws by special event permittees and commercial establishments located within the Village and

**WHEREAS**, the Village Council wishes to amend Chapter 7 of the Village s Code of Ordinances ( Code ) to create Section 7 4 to prohibit the sale and distribution of plastic straws and

**WHEREAS**, the Village Council finds that this Ordinance is necessary for the preservation and improvement of the environment public health safety and welfare of the Village s residents and visitors

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAWAYNE, FLORIDA, AS FOLLOWS:<sup>1</sup>

**Section 1. Recitals.** The above-stated recitals are true and correct and are incorporated herein by this reference.

**Section 2. Amending Chapter 7 of the Village Code.** That the Code of Key Biscayne, Florida is hereby amended by adding Section 7-4 "Prohibition on Distribution and Sale of Plastic Straws," which section shall read as follows:

## Chapter 7 – Business Regulations

### Article I. – In General

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#### **Section 7-4. Prohibition on Distribution and, Sale, or Use of Plastic Straws.**

(a) **Definitions.** For purposes of this section, the following definitions apply:

- (1) *Plastic Straw* means a straw or stirrer provided, sold, or distributed for the purpose of imbibing liquids or transferring a beverage from its container to the mouth of the drinker by suction or for the purpose of mixing a beverage, which is predominantly made of plastic derived from one or more of the following: petroleum, a biologically-based source (such as corn or other plants), or polystyrene, polypropylene, or polyethylene, and which is intended for a single-use. A Plastic Straw does not include a straw that is made of non-plastic materials, such as paper, sugar cane, bamboo, or other similar materials.
- (2) *Special Event Permittee* means any person or entity, and their subcontractor(s), issued a special events permit by the Village for a special event on Village property, or in a Village facility, or in the Village's right-of-way.
- (3) *Village Facility* includes, but is not limited to, any building, structure, park, beach, road, street, right-of-way, or other facility owned, operated or managed by the Village.
- (4) *Village Property* includes, but is not limited to, any land, water, or air rights owned, operated or managed by the Village.

<sup>1</sup> Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with highlighted double strikethrough and double underline.

(b) **Plastic Straws Prohibited; Exceptions**

(1) A Plastic Straw shall not be ~~used,~~ sold, or distributed in any commercial establishment ~~or by any mobile vendor;~~ at any Village Facility, on Village Property, ~~or at any other public property;~~ or by any Special Event Permittee.

(2) **Exceptions.**

- a. This prohibition shall not apply to pre-packaged drinks sold at commercial establishments.
- b. This prohibition shall not apply to medical or dental facilities.
- c. This prohibition shall not apply to the school district or county, state, or federal governmental entities.
- d. This prohibition shall not apply where a reasonable accommodation is needed for an individual due to a medical or physical condition.

(c) **Enforcement; Penalties**

- (1) Following adoption of this Section, the Village shall engage in public education efforts to inform commercial establishments of the provisions of this Section and to provide assistance with identifying alternatives to Plastic Straws.
- (2) Beginning January 1, 2019, the Village's Code Enforcement Department shall enforce all provisions of this Section.
- (3) Penalties for violations of the provisions of this Section shall be enforced through Chapter 2 of the Village Code. In addition, the Village Police Department may enforce the provisions of this Section. Violations of the provisions of this Section shall be on a per occurrence basis and subject to the following penalties:
  - a. First violation: \$250 for commercial establishments.
  - b. Second and subsequent violations: \$500 for commercial establishments.

**Secs. 7-45 – 7-30. Reserved.**

**Section 3. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 4. Inclusion in Code.** It is the intent of the Village Council that the provisions of this ordinance shall become and be made a part of the Village's Code of Ordinances, and that the sections of this Ordinance may be renumbered or relettered, and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

**Section 5. Conflicts.** All ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.


**Section 6. Effective Date.** This Ordinance shall become effective immediately upon final adoption on second reading.

**PASSED** on first reading on the 5<sup>th</sup> day of June, 2018.

**PASSED AND ADOPTED** on second reading on the 28<sup>th</sup> day of August, 2018.

  
MAYOR MAYRA PEÑA LINDSAY

ATTEST:

  
JENNIFER MEDINA, CMC  
VILLAGE CLERK



APPROVED AS TO FORM AND LEGALITY:

  
VILLAGE ATTORNEY

## MIAMI DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and  
Legal Holidays  
Miami, Miami-Dade County, Florida

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE:

Before the undersigned authority personally appeared GUILLERMO GARCIA, who on oath says that he or she is the DIRECTOR OF OPERATIONS, Legal Notices of the Miami Daily Business Review f/k/a Miami Review, a daily (except Saturday, Sunday and Legal Holidays) newspaper, published at Miami in Miami-Dade County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

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in the XXXX Court,  
was published in said newspaper in the issues of

08/16/2018

Affiant further says that the said Miami Daily Business Review is a newspaper published at Miami, in said Miami-Dade County, Florida and that the said newspaper has heretofore been continuously published in said Miami-Dade County, Florida each day (except Saturday, Sunday and Legal Holidays) and has been entered as second class mail matter at the post office in Miami in said Miami-Dade County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

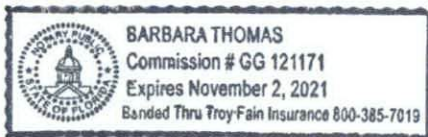
*Guillermo Garcia*

Sworn to and subscribed before me this  
16 day of AUGUST A.D. 2018

*Barbara Thomas*

(SEAL)

GUILLERMO GARCIA personally known to me



### VILLAGE OF KEY BISCAYNE OFFICE OF THE VILLAGE CLERK PUBLIC NOTICE

Notice is hereby given that the following ordinance will be considered on Second Reading by the Village Council of the Village of Key Biscayne at a meeting to be held on Tuesday, August 28, 2018 at 6:00 p.m., in the Council Chamber, located at 560 Crandon Boulevard, Key Biscayne, Florida:

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 7, "BUSINESS REGULATIONS" OF THE VILLAGE CODE OF ORDINANCES TO INCLUDE SECTION 7-4, "PROHIBITION ON DISTRIBUTION, SALE, OR USE OF PLASTIC STRAWS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

The proposed Ordinance may be inspected by the public at the Office of the Village Clerk. Interested parties may appear at the Public Hearing and be heard with respect to the proposed Ordinances. Any person wishing to address the Village Council on any item at this Public Hearing is asked to register with the Village Clerk prior to that item being heard.

In accordance with the Americans With Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this proceeding because of that disability should contact the Office of the Village Clerk, 88 West McIntyre Street, Suite 220, Key Biscayne, Florida 33149, telephone number (305) 365-5506, not later than two business days prior to such proceeding.

Should any person desire to appeal any decision of the Village Council with respect to any matter to be considered at this meeting, that person shall insure that a verbatim record of the proceedings is made including all testimony and evidence upon which any appeal may be based (F.S. 286.0105).

Comments of any interested party relative to this matter may be submitted in writing and or presented in person at the public hearing.

Jennifer Medina, CMC  
Village Clerk  
18-56/0000339910M

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